



**PATENT APPLICATION**

**APPELLANTS' REPLY BRIEF**  
U.S. Application No. 09/220,293

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of

William J. BAER et al.

Application No.: 09/220,293

Group Art Unit: 2171

Confirmation No.: 3693

Examiner: J. Veillard

Filed: December 23, 1998

**FOR: METHOD AND APPARATUS FOR CONFIGURABLE MAPPING BETWEEN DATA STORES AND DATA STRUCTURES AND A GENERALIZED CLIENT DATA MODEL USING HETEROGENOUS, SPECIALIZED STORAGE**

**APPELLANTS' REPLY BRIEF ON APPEAL UNDER 37 C.F.R. §1.193**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

In accordance with 37 C.F.R. § 1.193(b)(1), Appellants submit the following remarks in response to the Examiner's Answer dated March 26, 2002.

The Examiner indicates that he does not read "transferring" data as equal to read or write data which are database operations. Appellants understand the Examiner to be referring to Appellants' argument that transferring data to a data store means writing data to a data store. Appellants respectfully disagree.

In a telephone interview on September 11, 2001, Appellants explained to the Examiner that the set of related data of the present application may consist of relational data, files, references to files from indexing engines, or any other combination of data, as described on page

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5 of the specification. Appellants also stated that it is clear to one skilled in the art that transferring such data to some location means writing that data to that place and that transferring such data from some location means reading that data from that place. Appellants understood the Examiner to agree that the present application discloses and recites an asset management system with read-write capability features, but construes "transferring data to a data store" in Mullins as "writing data to a data store," the same meaning as "transferring data to a data store" in the present application. Accordingly, Appellants do not fully understand what appears to be the Examiner's change in position.

The Examiner stated at item 6 of the Advisory Action dated October 18, 2001, that "the request for reconsideration has been considered but does not place the application in condition for allowance because read-write correspond to 'transferring the data to and from the data store'", referring to Mullins col. 4, lines 49-65 and col. 5, lines 17-19. The Examiner thus confirms that he construes "transferring data to and from the data store" as writing data to and reading data from the data store.

The Examiner has indicated the following change to Issues, part VI of the Appeal Brief: "The 'read-write capability features' are not recited in claim 1." Appellants respectfully disagree.

As presented previously, Appellants assert that the read-write capability features are inherent in claim 1 of the present application, and that the prior art fails to disclose or suggest such features, for all of the reasons set forth in the Appeal Brief. Again, the Examiner's statement at item 6 of the Advisory Action indicates his agreement with the Appellants that the

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read-write capability features are inherent in the claims. Accordingly, Appellants submit that the first issue identified in part VI of the Appeal Brief and argued in part VIII of the Appeal Brief is framed properly.

The Examiner also advises changes to Grouping of Claims, part VII of the Appeal Brief, stating that the rejection of claims 1; 2; 3; 4; 5; 6; 9; and 7-8 stand or fall together because Appellants' brief allegedly does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. Appellants respectfully disagree.

Each of the foregoing groups of claims is called out specifically, and each group is argued separately in the Appeal Brief. It appears that the Examiner is not interpreting 37 C.F.R. § 1.192(c)(7) correctly. 37 C.F.R. § 1.192 (c) (7) provides that for each ground of rejection which appellant contests and which applies to a group of two or more claims, the Board shall select a single claim from the group and shall decide the appeal as to the ground of rejection on the basis of that claim alone unless a statement is included that the claims of the group do not stand or fall together..." Appellants have provided eight groups of claims, identified separately with respect to eight issues, and have argued those eight issues separately in the Appeal Brief. Thus, on the record presented to the Board, the Board can identify a representative claim from each of the eight groups, and can decide the appeal as to each group based on a single claim from each group.

Viewed another way, when for example the Board decides that claim 1 is unpatentable, the Board cannot use that determination by itself to say that claim 2, a claim of another group is unpatentable. Rather, the Board will have to rule separately on claim 2. In similar fashion, as to

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each succeeding group, the Board's adverse decision on a preceding group will not determine whether the claims of the succeeding group(s) are patentable.

Pursuant to the foregoing, Appellants submit that the eight groups of claims are properly identified separately, and each of the eight groups must be treated separately.

Appellants note that the Examiner appears to include new grounds for rejection in part (10) of the Examiner's Answer. In particular, the Examiner stated in the Office Actions dated May 8, 2001 and August 22, 2001 respectively, that the asset manager server disposed between the client application and the data store of the present application is disclosed at "Mullins' Fig.1, col.7, lines 39-67". The cited part of Mullins describes an object application 101, an adapter abstraction layer 600 comprising a first adapter 400 and a second adapter 500, and a data store 302. The Examiner also states in these Office Actions that the at least one schema adapter of the present application is disclosed at "Mullins' col.3, lines 1-7 and col.4, lines 49-61," both describing the second adapter 500 communicating with a underlying data store. Apparently, the Examiner asserts in these Office Actions that the adapter abstraction layer 600, the first adapter 400, and the second adapter 500 of Mullins correspond respectively to the asset manager server, the at least one client adapter, and the at least one schema adapter of the present application.

However, in part (10) of the Examiner's Answer, the Examiner asserts elements 200-206 and 600 of Mullins correspond to the asset manager server of the present invention, although only meta data map 206 is mentioned at "Mullins' Fig.1, col.7, lines 39-67" referred to by the Examiner in the Office Actions. The Examiner also asserts that Mullins' first adapter 400, second adapter 500, and adapter abstraction layer 600 correspond to the at least one client

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adapter of the present application. The Examiner further asserts that Mullins' object schema manager 203 corresponds to the at least one schema adapter of the present application, although object schema manager 203 is not mentioned at all in the part of Mullins specification referred to by the Examiner in the Office Actions. The Examiner has changed his interpretation of Mullins by changing the asserted correspondence between Mullins' elements and the elements of the present application as alleged in the Office Actions. Thus, the Examiner has put forth new grounds of rejection in part (10) of the Examiner's Answer, violating 37 C.F.R. §1.193(a)(2).

However, even assuming, *arguendo*, that the Examiner's new assertions are not new grounds of rejection, they are misapprehensions of Mullins. According to "Mullins col.3, lines 1-7 and col.4, lines 49-61" referred to by the Examiner, Mullins' adapter abstraction layer 600 comprises the first adapter 400 in communication with an object application, and the second adapter 500 in communication with the underlying data store. It could not be clearer that at most only the first adapter 400, instead of adapter abstraction layer 600, the first adapter 400, and the second adapter 500 of Mullins alleged in the Examiner's Answer, might correspond to the client adapter of the present application. In addition, Mullins explicitly states that the object schema manager 203 allows data store administrators to create and maintain an object view of data store content 301 stored in the data store 302. No data from the object application is written to the data store via the object schema manager 203. In contrast, the at least one schema adapter of the present application transfers the data to and from the data store in response to methods invoked in the at least one client adapter of the client application. The functions of the two elements are too different to maintain the correspondence alleged in the Examiner's Answer.

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The Examiner also includes the above new grounds for rejection in his rejections of claims 3 and 5 in part (10) of the Examiner's Answer, violating 37 C.F.R. §1.193(a)(2) and misapprehending Mullins.

The Examiner argues that the feature that the data of the present application, transferred to and from the data store, comprises relational data, files, references to files from indexing engines, or any other combination of data types are not recited in the claims. Appellants respectfully disagree. A patentee is free to be his own lexicographer. *Autogiro Company of America v. United States*, 384 F.2d 391, 397, 155 U.S.P.Q. 697, 702 (U.S. Ct. Cl. 1967). For claim construction purposes, the description may act as a sort of dictionary, which explains the invention and may define terms used in the claims. *In re Vogel*, 422 F.2d 438, 441, 164 U.S.P.Q. 619, 621 (CCPA 1970). Here, Appellants state in the description that the set of related data may consist of relational data, files, references to files from indexing engines, or any other combination of data types (page 5, lines 9-10). Thus, the above-mentioned feature should be read into the claims.

The Examiner disagrees with Appellants' assertion that Mullins teaches a read-only system, citing that the Mullins' object schema manager 203 reads, writes and updates the meta data. As discussed above, Mullins' object schema manager 203 facilitates the creation and maintenance of the object schema 200, an object view of the data store schema of a non-object data store 300, and thus allows object application 101 to access the non-object data store 300 (Mullins col. 5, lines 31-44; col. 4, lines 7-14). It is clear that no data from the object application is written to the data store 300 via the object schema manager 203.

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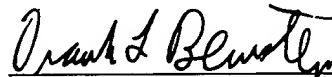
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The Examiner disagrees with the Appellants that Mullins is not enabling with respect to the disclosure of "transferring the requested data store content from the first adapter." The Examiner asserts that US patents are assumed enabling. Appellants respectfully note that the Examiner's assumption is not valid. The policy rationale behind the enablement requirement is to ensure that the scope of a patent claim accords with the extent of the inventor's technical contribution. Here, "transferring the requested data store content from the first adapter," mentioned once in the description without any accompanying detail, and contradicted by other disclosure in Mullins, is not claimed, and thus can not be assumed enabling. Therefore, Appellants submit that their argument regarding Mullins's non-enablement is on point.

The Examiner's other arguments on the merits appear to be a *verbatim* repeat of points made in the Office Actions. Appellants believe that their Brief frames Appellants' response completely, and so no further response is required here.

Pursuant to the foregoing, Appellants respectfully request that the Board reverse the Examiner's rejection, and pass the application to allowance at the earliest opportunity.

Respectfully submitted,



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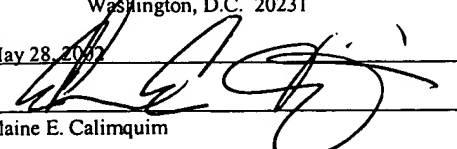
Date: May 28, 2002

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Signed:   
Elaine E. Calimquim